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U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,	:	Case: 2:14cr00104
	:	Assigned To : Nuffer, David
	:	Assign. Date : 2/26/2014
Plaintiff,	:	Description: USA v.
v.	:	INDICTMENT
CHARLES FREDERICK	:	Viols.
McCUSKER,	:	
Defendant.	:	18 U.S.C. § 1347 (Health Care Fraud)
	:	Counts 1 - 18
	:	
	:	18 U.S.C. § 1341 (Mail Fraud)
	:	Counts 19 - 34

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The Grand Jury charges:

**BACKGROUND**

At all times relevant to this Indictment:

### **The Defendant and His Businesses**

1. Defendant CHARLES FREDERICK McCUSKER (“defendant McCUSKER”) was a resident of Salt Lake County, Utah, and a licensed Utah psychologist doing business as HEALTH BALANCE INTERNATIONAL, LLC, a Utah limited liability company, with an address of 2689 South Highland Drive, Salt Lake City, Utah 84106. Beginning on or about September 10, 2012, defendant McCUSKER also conducted business as NEW LIFE BALANCE, LLC, a Utah limited liability company, with an address of 2689 South Highland Drive, Salt Lake City, Utah 84106. From around 2007 to around 2009, defendant McCUSKER held and controlled a bank account (No. XXXXX2186) at Barnes Bank. From around 2009 to at least August 2013, defendant McCUSKER held and controlled a bank account (No. XXXXX7308) at J.P. Morgan Chase Bank.

### **Victims of the Defendant’s Scheme**

2. The Medicare Program (“Medicare”) was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly and the disabled. The benefits available under Medicare were prescribed by statute and by federal regulations under the auspices of the United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services. Individuals who received benefits under Medicare were commonly referred to as

“beneficiaries.” Medicare was a “health care benefit program,” as defined by 18 U.S.C. § 24(b). Patients 1 through 5 were qualified Medicare beneficiaries.

3. Deseret Mutual Benefits Administrators (“DMBA”) was a private health care plan and offered health care benefits to employer groups, individuals, and others in Utah. DMBA was a “health care benefit program,” as defined by 18 U.S.C. § 24(b). Patient 1 also was a qualified DMBA beneficiary.

4. Regence Blue Cross Blue Shield of Utah (“Regence”) was a private health care plan and offered health care benefits to employer groups, individuals, and others in Utah. Regence was a “health care benefit program,” as defined by 18 U.S.C. § 24(b). Patients 6 and 7 were qualified Regence beneficiaries.

5. Aetna was a private health care plan and offered health care benefits to employer groups, individuals, and others in Utah. Aetna was a “health care benefit program,” as defined by 18 U.S.C. § 24(b). Patients 8 through 17 were qualified Aetna beneficiaries.

**Counts 1 through 18  
18 U.S.C. § 1347  
(Health Care Fraud)**

**THE SCHEME AND ARTIFICE TO DEFRAUD**

6. The Grand Jury, by this reference, realleges paragraphs 1 through 5 above as if fully stated herein.

7. From around 2007 to around August 2013, in the Central Division of the District of Utah,

**CHARLES FREDERICK McCUSKER,**

defendant herein, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud health care benefit programs (to wit: Medicare, DMBA, Regence, and Aetna) and to obtain by means of false and fraudulent pretenses, representations, and promises money owned by and under the custody and control of health care benefit programs, in that defendant McCUSKER billed health care benefit programs for services not provided to patients, resulting in payments to which he was not entitled.

**MANNER AND MEANS OF  
THE SCHEME AND ARTIFICE TO DEFRAUD**

Defendant McCUSKER executed and attempted to execute the scheme to defraud in the following manner and through one or more of the following means:

8. It was part of the scheme to defraud that defendant McCUSKER obtained from patients their health insurance information under the guise that defendant McCUSKER would bill health care benefit programs only for services actually provided.

9. It was further part of the scheme to defraud that for some patients, defendant McCUSKER did not meet at all with a patient nor provide any follow up services. Despite that fact, defendant McCUSKER falsely and fraudulently billed such patients' health care benefit programs for services not provided.

10. It was further part of the scheme to defraud that for some patients, defendant McCUSKER met with a patient only once and provided no follow up services. Despite that fact, defendant McCUSKER falsely and fraudulently billed such patients' health care benefit programs for follow up services not provided.

11. It was further part of the scheme to defraud that for some patients, defendant McCUSKER provided services to patients on several occasions but falsely and fraudulently billed such patients' health care benefit programs for numerous additional services not provided.

12. It was further part of the scheme to defraud that defendant McCUSKER prepared and submitted, and caused to be prepared and submitted, claims to patients' health care benefit programs seeking reimbursement for services not provided. Those claims were received, processed, and paid by health care benefit programs. With respect to Medicare, payments to defendant McCUSKER were sent electronically to his Barnes Bank account. With respect to DMBA and Aetna, payments to defendant McCUSKER were by check and sent to him through the United States mails or by private or commercial carrier. Finally, with respect to Regence, payments to defendant McCUSKER were sent to him either electronically to his J.P. Morgan Chase account or by check through the United States mails or by private or commercial carrier.

13. From around 2007 to around August 2013, defendant McCUSKER caused health care benefit programs to pay over \$1,300,000 for services not provided to patients.

14. On or about each of the dates identified below,

**CHARLES FREDERICK McCUSKER,**

defendant herein, in executing and attempting to execute the scheme and artifice to defraud described above, did submit and cause to be submitted the following claims, among others, to a health care benefit program seeking reimbursement for services not provided to a patient, resulting in payments to defendant McCUSKER to which he was not entitled:

Count	Date of Service	Date of Claim Submission/ Health Care Benefit Program	Patient	Description of Service Billed But Not Provided
1	03/08/09	03/17/09 Medicare	1	CPT 96101 (psychological testing)
2	10/22/08	04/09/09 DMBA	1	CPT 96101 (psychological testing)
3	03/19/09	04/16/09 DMBA	1	CPT 96101 (psychological testing)
4	03/29/10	04/14/10 DMBA	1	CPT 96101 (psychological testing)
5	06/20/11	07/29/11 DMBA	1	CPT 96101 (psychological testing)
6	03/02/12	03/30/12 DMBA	1	CPT 96101 (psychological testing)
7	10/17/12	11/01/12	6	CPT 96101 (psychological testing)

		Regence		
8	10/23/12	12/03/12 Regence	7	CPT 96101 (psychological testing)
9	11/07/12	03/21/13 Aetna	8	CPT 96101 (psychological testing)
10	11/09/12	12/05/12 Aetna	9	CPT 96101 (psychological testing)
11	11/08/12	12/15/12 Aetna	10	CPT 96101 (psychological testing)
12	11/09/12	01/17/13 Aetna	11	CPT 96101 (psychological testing)
13	01/05/13	04/26/13 Aetna	12	CPT 96101 (psychological testing)
14	11/17/12	12/14/12 Aetna	13	CPT 96101 (psychological testing)
15	11/17/12	03/20/13 Aetna	14	CPT 96101 (psychological testing)
16	11/17/12	12/13/12 Aetna	15	CPT 96101 (psychological testing)
17	11/27/12	03/05/13 Aetna	16	CPT 96101 (psychological testing)
18	12/17/12	02/27/13 Aetna	17	CPT 96101 (psychological testing)

All in violation of 18 U.S.C. §§ 1347 and 2.

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**Counts 19 through 34**  
**18 U.S.C. § 1341**  
**(Mail Fraud)**

15. The Grand Jury, by this reference, realleges the allegations in paragraphs 1 through 13 above as if fully stated herein.

16. From around 2007 to around August 2013, in the Central Division of the District of Utah,

**CHARLES FREDERICK McCUSKER,**

defendant herein, devised and executed, and attempted to do so, a scheme and artifice to defraud health care benefit programs (to wit: DMBA, Regence, and Aetna) and to obtain money from health care benefit programs by means of false and fraudulent pretenses, representations, and promises, and knowingly caused to be placed in any post office or authorized depository for mail any matter or thing to be sent and delivered by the United States Postal Service or caused to be deposited any matter or thing to be sent or delivered by a private or commercial interstate carrier, and did cause such matter or thing to be delivered according to the directions thereon, as more particularly described below.

17. On or about the dates identified below, in furtherance and execution of the above scheme and artifice to defraud, defendant McCUSKER caused health care benefit programs to: (1) issue a check to defendant McCUSKER under the false and fraudulent



pretense that services had been provided to a patient; (2) place such check in an envelope; and (3) place or deposit such envelope in a post office or authorized depository for mail to be sent and delivered to defendant McCUSKER by the United States Postal Service or by a private or commercial interstate carrier according to the directions thereon:

Count	Date(s) of Service	Date of Mailing / Check Amount/ Health Care Benefit Program	Patient	Description of Service Paid For But Not Provided
19	Multiple dates between 10/15/08-04/07/09	04/10/09 \$5,909.76 DMBA	1	CPT 96101 (psychological testing)
20	Multiple dates between 03/29/10-04/13/10	04/19/10 \$7,858.62 DMBA	1	CPT 96101 (psychological testing)
21	Multiple dates between 06/20/11-07/26/11	08/01/11 \$13,814.64 DMBA	1	CPT 96101 (psychological testing)
22	Multiple dates between 01/26/12-03/02/12	04/02/12 \$12,410.86 DMBA	1	CPT 96101 (psychological testing)
23	Multiple	11/28/12	6 and 7	CPT 96101 (psychological testing)

	dates between 11/01/12- 11/12/12	\$4,240.13 Regence		
24	Multiple dates between 12/28/12- 01/09/13	01/23/13 \$5,226.69 Regence	6 and 7	CPT 96101 (psychological testing)
25	11/07/12	04/04/13 \$35,994.24 Aetna	8	CPT 96101 (psychological testing)
26	12/08/12	12/27/12 \$2,499.90 Aetna	9	CPT 96101 (psychological testing)
27	12/07/12	02/07/13 \$499.98 Aetna	10	CPT 96101 (psychological testing)
28	01/03/13	04/18/13 \$25,640.18 Aetna	11	CPT 96101 (psychological testing)
29	01/05/13	05/09/13 \$83,241.72 Aetna	12	CPT 96101 (psychological testing)
30	11/17/12	01/07/13 \$2,399.88 Aetna	13	CPT 96101 (psychological testing)
31	01/04/13	04/25/13 \$17,957.28	14	CPT 96101 (psychological testing)

		Aetna		
32	12/12/12	03/28/13 \$5,999.04 Aetna	15	CPT 96101 (psychological testing)
33	12/03/12	03/18/13 \$499.92 Aetna	16	CPT 96101 (psychological testing)
34	07/08/12	08/08/13 \$8,998.56 Aetna	17	CPT 96101 (psychological testing)

All in violation of 18 U.S.C. §§ 1341 and 2.

**FORFEITURE ALLEGATIONS**  
**18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461; 18 U.S.C. § 982(a)(7)**  
**(Criminal Forfeiture)**

1. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. §§ 981 and 982, and 28 U.S.C. § 2461.

2. As a result of the violations of 18 U.S.C. §§ 1347 and 1341, as set forth in this Indictment, defendant CHARLES FREDERICK McCUSKER shall forfeit to the United States any property, real or personal, that constitutes or is derived from, directly or indirectly, gross proceeds traceable to the commission of such violations, pursuant to 18 U.S.C. §§ 982(a)(7) and 981(a)(1)(C), and 28 U.S.C. § 2461. The property to be forfeited includes, but is not limited to, a money judgment, representing a sum of money equal to

such amount as proved at trial in this matter, representing the total amount of gross proceeds traceable to the violations of 18 U.S.C. §§ 1347 and 1341 alleged in this Indictment.

3. Substitute Assets: If the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:
- a. Cannot be located upon the exercise of due diligence;
  - b. Has been transferred or sold to, or deposited with, a third party;
  - c. Has been placed beyond the jurisdiction of the Court;
  - d. Has been substantially diminished in value; or
  - e. Has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of the

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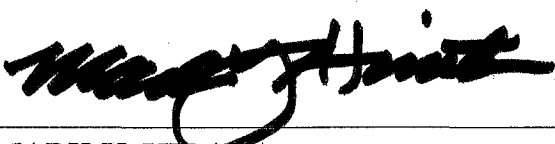
defendant up to the value of the forfeitable property described above.

A TRUE BILL:

  
FOREPERSON OF THE GRAND JURY

APPROVED:

DAVID B. BARLOW  
United States Attorney

  
MARK Y. HIRATA  
Assistant United States Attorney